

May 13, 2004

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 13th day of May 2004, at 8:00 P.M., and there were

PRESENT:           ANTHONY ESPOSITO, MEMBER  
                      JOSEPH GIGLIA, MEMBER  
                      WILLIAM MARYNIEWSKI, MEMBER  
                      RICHARD QUINN, MEMBER  
                      ARLIE SCHWAN, MEMBER  
                      ROBERT THILL, MEMBER

ABSENT:           JEFFREY LEHRBACH, CHAIRMAN

ALSO PRESENT:   JOHANNA M. COLEMAN, TOWN CLERK  
                      JOHN DUDZIAK, DEPUTY TOWN ATTORNEY  
                      JEFFREY SIMME, BUILDING INSPECTOR

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

In the absence of Chairman Lehrbach, a motion to appoint Mr. Esposito temporary chairman was made by Mr. Quinn and seconded by Mr. Giglia.

The motion was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	WAS ABSENT

Motion Carried

## PETITION OF TIM HORTON'S:

THE 1st CASE TO BE CONSIDERED BY THE Zoning Board of Appeals was that of the adjourned petition of Tim Horton's Restaurant, 4455 Transit Road, Williamsville, New York 14221 for six [6] variances for the purpose of constructing a coffee and baked goods restaurant on premises located at the north east corner of Genesee Street and Harris Hill Road, namely 496 Harris Hill Road. The property is owned by Robert Nucherenno of 4855 Meadowbrook, Williamsville, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster for the purpose of erecting a six [6] foot high fence along the north property line beginning thirty [30] feet from the right of way.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a required front yard area (sixty foot set back) to three [3] feet in height. The petitioner, therefore, requests a three [3] foot fence height variance for a fence length of thirty [30] feet beginning at a point [30] thirty feet inside the right of way and positioned along the north property line.

- B. A variance from the requirements of Chapter 50, Zoning, Section 18C.(3) of the Code of the Town of Lancaster. The proposed structure location would result in a thirty [30] foot west front yard set back on Harris Hill Road.

Chapter 50, Zoning, Section 18C.(3) of the Code of the Town of Lancaster requires a sixty [60] foot west front yard set back on Harris Hill Road. The petitioner, therefore, requests a thirty [30] foot west front yard set back variance from Harris Hill Road.

- C. A variance from the requirements of Chapter 50, Zoning, Section 18C.(1) of the Code of the Town of Lancaster. The lot area of the premises upon which the variance is sought is .72 acres [31,363 square feet].

Chapter 50, Zoning, Section 18C.(1) of the Code of the Town of Lancaster requires a minimum lot area of one acre [43,560 square feet]. The petitioner, therefore, requests a .28 acre [12,197 square foot] lot area variance.

- D. A variance from the requirements of Chapter 50, Zoning, Section 18C.(3) of the Code of the Town of Lancaster. The proposed south exterior front yard setback for parking and stacking along Genesee Street is 9.5 feet.

Chapter 50, Zoning, Section 18C.(3) of the Code of the Town of Lancaster requires that there be a twenty [20] foot fully landscaped south exterior front yard setback. The petitioner, therefore, requests a 10.5 foot south front yard set back variance along Genesee Street.

- E. A variance from the requirements of Chapter 50, Zoning, Section 18C.(3) of the Code of the Town of Lancaster. The proposed east side yard set back for parking, loading and stacking is 4.1 feet.

Chapter 50, Zoning, Section 18C.(3) of the Code of the Town of Lancaster requires that there be a twenty-five [25] foot fully landscaped east side yard. The petitioner, therefore, requests a 20.9 foot east side yard set back variance.

- F. A variance from the requirements of Chapter 50, Zoning, Section 18C.(3) of the Code of the Town of Lancaster. The proposed north side yard setback for parking, loading and stacking is fifteen [15] feet.

Chapter 50, Zoning, Section 18C.(3) of the Code of the Town of Lancaster requires that there be a twenty-five [25] foot fully landscaped north side yard. The petitioner, therefore, requests a ten [10] foot north front yard set back variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Planning of the time and place of this public hearing.

Copy of a letter notifying New York State Department of Transportation of the time and place of this public hearing.

**IN THE MATTER OF THE PETITION OF TIM HORTON'S**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. THILL, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. QUINN  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Tim Horton's and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of May 2004, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the petitioner has requested an adjournment of this hearing until a further date at which time the petitioner will be able to provide the Zoning Board of Appeals of the Town of Lancaster further testimony and evidence, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster, with the concurrence of the petitioner, agrees that an adjournment of this hearing is in the best interest of both the residents of the Town of Lancaster and the petitioner.

**NOW, THEREFORE, BE IT**

**RESOLVED** that this hearing be adjourned to allow for further testimony and evidence to be presented.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	WAS ABSENT

The resolution was thereupon **ADOPTED**.

May 13, 2004

**PETITION OF RONALD & ANN VANYO:**

THE 2nd CASE TO BE CONSIDERED BY THE Zoning Board of Appeals was that of the adjourned petition of Ronald and Ann Vanyo, 1 Park Walk, Lancaster, New York 14086 for one variance for the purpose of erecting a six [6] foot high fence in a required front yard area on premises owned by the petitioners at 1 Park Walk, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster for the purpose of erecting a six [6] foot high fence in a required front yard.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard area to three [3] feet in height. The petitioner, therefore, requests a three [3] foot fence height variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Jeffrey Voelkl, attorney representing petitioner 5672 Main Street Williamsville, New York 14221	Proponent
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Ronald Vanyo, petitioner 1 Park Walk Lancaster, New York 14086	Proponent
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Ann Vanyo, petitioner 1 Park Walk Lancaster, New York 14086	Proponent
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**IN THE MATTER OF THE PETITION OF RONALD & ANN VANYO**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. QUINN, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. GIGLIA  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Ronald and Ann Vanyo and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of May 2004, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicants are the present owners of the premises in question.

That the property for which the applicants are petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.

That the character of the neighborhood of the area of Park Walk, Village View, Creekwood Drive, Park Edge Drive, Schiffler Court as respects fences constructed within front yards or within front yard equivalents on corner lots is as follows:

- One 4 foot high vinyl slatted picket fence has been erected on premises locally known as 47 Village View in the exterior side yard fronting on Park Walk with a nine foot property line set back from Park Walk.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought. **Dissension - Mr. Thill**

That no detriment to nearby properties will be created by the granting of the area variance relief sought. **Dissension - Mr. Thill**

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial, but petitioner has proven he needs it.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. **Dissension - Mr. Thill**

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following condition which in the opinion of this board is an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That the fence be erected not less than five (5) feet north of the sidewalk along Village View.
- That the fence stops at a point not less than thirteen (13) feet east of the west rear property line.
- That the fence be angled away from the sidewalk in a north westerly direction whereby it creates an interior rear yard fence angle of 135° and is then extended to the west rear yard property line at a point not less than eighteen (18) feet north of the sidewalk along Village View.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED NO
MR. SCHWAN	VOTED YES
MR. THILL	VOTED NO
MR. LEHRBACH	WAS ABSENT

The resolution granting the variance was thereupon **ADOPTED**.

May 13, 2004

**PETITION OF MICHAEL ANTONICELLI:**

THE 3rd CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Michael Antonicelli, 68 Westwood Road, Lancaster, New York 14086 for two [2] variances for the purpose of constructing an 1,800 square foot pole barn on premises owned by the petitioner at 68 Westwood Road, Lancaster New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster. The area of the proposed accessory structure is 1,800 square feet.

Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster limits the area of an accessory structure to 750 square feet. The petitioner, therefore, requests a 1,050 square foot accessory use area variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 9D.(1)(b) of the Code of the Town of Lancaster. The proposed location of the pole barn will result in a 3.5 foot east side yard lot line set back.

Chapter 50, Zoning, Section 9D.(1)(b) of the Code of the Town of Lancaster requires a fifteen [15] foot lot line set back. The petitioner, therefore, requests an 11.5 foot east side yard lot line set back variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Michael Antonicelli, petitioner  
68 Westwood Road  
Lancaster, New York 14086

Proponent



**IN THE MATTER OF THE PETITION OF MICHAEL ANTONICELLI**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. ESPOSITO, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. SCHWAN  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Michael Antonicelli and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of May 2004, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within an Agricultural Residential District, (AR) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Agricultural Residential District, (AR) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial, but not out of character for the neighborhood.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That there are other pole barns in the neighborhood.

That the property is at an elevation 13' lower than the roadway.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

That the vacant property to the east has a lot frontage of eighty (80) feet and is thereby not a buildable lot under current provisions of the Code of the Town of Lancaster.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That no commercial enterprise, other than those permitted by Code of the Town of Lancaster, be conducted on the premises.
- That the roof be of an earth tone, non reflective color.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	WAS ABSENT

The resolution granting the variances was thereupon **ADOPTED**.

May 13, 2004

**PETITION OF CHRISTOPHER M. KACALSKI:**

THE 4th CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Christopher M. Kacalski, 285 Enchanted Forest North, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a six [6] foot high fence in a required open space area on premises owned by the petitioner at 285 Enchanted Forest North, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Enchanted Forest North with an exterior side yard [considered a front yard equivalent] fronting on Thomas Drive. The petitioner proposes to erect a six [6] foot high fence within the required open space area of the exterior side yard fronting on Thomas Drive.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard or an exterior side yard [considered a front yard equivalent] to three [3] feet in height. The petitioner, therefore, requests a three [3] foot fence height variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Christopher Kacalski, petitioner  
285 Enchanted Forest North  
Lancaster, New York 14086

Proponent

**IN THE MATTER OF THE PETITION OF CHRISTOPHER KACALSKI**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. SCHWAN, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. GIGLIA  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Christopher Kacalski and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of May 2004, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That the character of the neighborhood within 1000 feet of 285 Enchanted Forest North as respects fences constructed within front yards or within front yard equivalents on corner lots is as follows:

- At 35 South Point Drive, a corner lot with an exterior side yard fronting on Thomas Drive, a six (6) foot high fence has been erected in the exterior side yard on Thomas Drive with a ten (10) ± foot property line set back from Thomas Drive.
- At 268 Enchanted Forest North, a corner lot with an exterior side yard fronting on Walnut Creek Trail, a six foot high fence has been erected in the exterior side yard on Walnut Creek Trail with a fifteen (15) ± foot property line set back from Walnut Creek Trail.
- At 1 Nottingham Lane, a corner lot with an exterior side yard fronting on Thomas Drive, a six (6) foot high fence has been authorized, but not yet erected in the exterior side yard on Thomas Drive.

That the premises upon which this variance is sought, namely 285 Enchanted Forest North is a corner lot with an exterior side yard on Thomas Drive and with a rear lot line contiguous with the rear lot line of the premises on 41 South Point Drive which is also a corner lot within an exterior side yard on Thomas Drive.

That nine (9) of the eleven (11) neighbors within 100 feet of the subject premises have indicated that they have reviewed the proposed fence location and style and have no objection to the granting of the variance.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT  
RESOLVED** that based upon these findings, the relief sought be and is hereby  
**GRANTED.**

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	WAS ABSENT

The resolution granting the variance was thereupon **ADOPTED.**

May 13, 2004

**PETITION OF KENNETH & PATRICIA FERRIE:**

THE 5th CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Kenneth and Patricia Ferrie, 5 Old Orchard Common, Lancaster, New York 14086 for one [1] variance for the purpose of constructing an addition to an attached garage on premises owned by the petitioners at 5 Old Orchard Common, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 10C.(3)(b)[1] of the Code of the Town of Lancaster. The location of the proposed dwelling would result in a west side yard of 5.91 feet and a total width of both side yards of 18.40 feet.

Chapter 50, Zoning, Section 10C.(3)(b)[1] of the Code of the Town of Lancaster requires a 7.5 foot west side yard and a combined width of 18.75 feet for both side yards. The petitioners, therefore, request a west side yard variance of 1.59 feet and a combined width variance of .35 feet.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Kenneth Ferrie, petitioner  
5 Old Orchard Common  
Lancaster, New York 14086

Proponent

**IN THE MATTER OF THE PETITION OF KENNETH & PATRICIA FERRIE**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. THILL, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. MARYNIEWSKI  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Kenneth & Patricia Ferrie and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of May 2004, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicants are the present owners of the premises in question.

That the property for which the applicants are petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That all neighbors within 100' of subject property have been notified of this hearing and none have indicated any objections to the requested variance.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT  
RESOLVED** that based upon these findings, the relief sought be and is hereby  
**GRANTED.**

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	WAS ABSENT

The resolution granting the variance was thereupon **ADOPTED**.

May 13, 2004



**PETITION OF DOROTHY OKAL:**

THE 6th CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Dorothy Okal, 185 Iroquois Avenue, Lancaster, New York for one [1] variance for the purpose of re-constructing an eight [8] foot seven [7] inch high fence panel in the rear yard on premises owned by the petitioner at 185 Iroquois Avenue, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35A. of the Code of the Town of Lancaster. The height of the fence panel is eight [8] feet seven [7] inches.

Chapter 50, Zoning, Section 35A of the Code of the Town of Lancaster limits the height of a fence in a residential district rear or side yard to six [6] feet in height. The petitioner, therefore, requests a two [2] foot seven [7] inch fence height variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Dorothy Okal, petitioner  
185 Iroquois Avenue  
Lancaster, New York 14086

Proponent

Mark Doherty  
172 Seneca Place  
Lancaster, New York 14086

Opposed to lattice type panel, but not to a solid panel.

**IN THE MATTER OF THE PETITION OF DOROTHY OKAL**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. THILL, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. QUINN  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Dorothy Okal and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of May 2004, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a Residential District 2, (R2) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 2, (R2) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That all neighbors within 100' of the subject property have been notified; there are two (2) neighbors who have expressed their objection to the granting of said variance if quality materials are not used.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That the proposed fence panel match the construction material of the existing fence and meets with the satisfaction of the Building Inspector of the Town of Lancaster.
- The present lattice work fence with blue tarpaulin be removed upon construction of the new fence panel and that the future attachment of tarpaulins be prohibited.

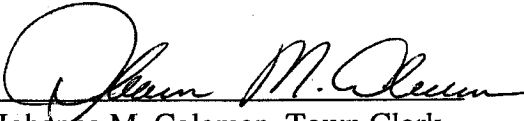
The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	WAS ABSENT

The resolution granting the variance was thereupon **ADOPTED**.

May 13, 2004

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was  
adjourned at 10:05 P.M.

Signed   
Johanna M. Coleman, Town Clerk  
Dated: May 13, 2004